

STATE OF MICHIGAN
COURT OF APPEALS

In re G. J. PHILLIPS, Minor.

UNPUBLISHED

June 11, 2015

No. 324347

Oakland Circuit Court

Family Division

LC No. 13-804666-NA

Before: STEPHENS, P.J., and BORRELLO and GADOLA, JJ.

PER CURIAM.

Respondent G. L. Phillips appeals as of right from a circuit court order terminating his parental rights to his minor son pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner, the Department of Human Services (DHS), filed a petition to take protective custody of respondent's son in December 2012, after the child presented to the hospital with second and third-degree burns on his left arm and abdomen. Respondent's explanation for the injuries was that his son was burned on a stove that respondent accidentally left on after he and his live-together partner (LTP) spent the night drinking and using cocaine. Respondent pleaded no-contest to the allegations in the petition, and the court took jurisdiction over the child in February 2013. Both respondent and his LTP were offered services pursuant to a parent-agency agreement, which was approved at the initial dispositional hearing. As part of the case service plan, respondent was required to undergo a psychological evaluation and follow any recommendations, to complete parenting classes and substance abuse treatment, to participate in random drug screens, to attend parenting visits, to maintain housing, and to verify his income. Respondent's LTP was also asked to participate in services because she resided with respondent.

Respondent completed a psychological evaluation in April 2013, which revealed that respondent suffered from short-term memory loss, had a short attention span, and had grand mal seizures due to a gunshot injury to the head. At a review hearing in June 2013, a caseworker reported that respondent had suitable housing, but he failed to visit his son for the past two months and failed to attend appointments for substance abuse treatment. In October 2013, a caseworker reported that respondent had not attended parenting visits since April, had not completed parenting classes, a substance abuse assessment, random drug screens, or therapy, and had not provided proof of legal income. The worker reported that respondent's last drug screen occurred in July 2013 and came back positive for cocaine. Respondent stated that he spent 10 days in jail during the last reporting period and that his LTP was in jail for two months.

In November 2013, the parties held a family team meeting in an attempt to facilitate respondent's access to services. Respondent's parenting-time visits were moved from Detroit to Pontiac near respondent's home, and petitioner arranged for in-home therapy sessions. Petitioner also gave respondent additional referrals for services he had already missed.

In March 2014, petitioner filed a supplemental petition to terminate respondent's parental rights. At the termination hearing, a caseworker reported that respondent's last drug screen occurred in mid-2013 and came back positive for cocaine. Respondent completed a 30-day inpatient drug program on March 24, 2014, but he failed to regularly participate in drug screens before or after that time. The caseworker testified that respondent was also referred for in-home therapy, but respondent's availability and participation was sporadic and he did not complete therapy. Respondent failed to attend parenting classes and still had not provided proof of a legal source of income.

The trial court found that clear and convincing evidence supported termination under MCL 712A.19b(3)(c)(i) (conditions that led to adjudication continue to exist), (3)(g) (failure to provide proper care or custody), and (3)(j) (reasonable likelihood of harm). Following additional hearings, the court also found that termination was in the child's best interests.

II. ANALYSIS

A. STANDARD OF REVIEW

To terminate parental rights, a trial court must find that clear and convincing evidence supports at least one of the statutory grounds for termination under MCL 712A.19b(3). *In re Moss*, 301 Mich App 76, 80; 836 NW2d 182 (2013). We review for clear error a trial court's finding that a statutory ground was proven by clear and convincing evidence. MCR 3.977(K); *In re JK*, 468 Mich 202, 209; 661 NW2d 216 (2003). We also review for clear error a trial court's decision that termination was in a child's best interests. *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). "A finding of fact is clearly erroneous if the reviewing court has a definite and firm conviction that a mistake has been committed, giving due regard to the trial court's special opportunity to observe the witnesses." *In re BZ*, 264 Mich App 286, 296-297; 690 NW2d 505 (2004).

B. REASONABLE REUNIFICATION EFFORTS

On appeal, respondent argues that the trial court clearly erred in finding that clear and convincing evidence supported termination, solely on the ground that petitioner failed to make reasonable efforts to reunify him with his child. Specifically, respondent contends that petitioner did not properly accommodate his special needs and instead implemented a "boilerplate" case service plan. We disagree that petitioner's reunification efforts were unreasonable.

Generally, when a child is removed from a parent's custody, the DHS is required to make reasonable efforts to reunify the child with his parent, MCL 712A.19a(2), and to rectify the conditions that caused the child's removal by adopting a case service plan, MCL 712A.18f(1), (2), and (4). *In re Fried*, 266 Mich App at 542. Initially, the record indicates that respondent affirmatively approved the case service plan at the initial dispositional hearing in March 2013, so we reject his contention that he did not have the opportunity to actively participate in the

development of the case service plan. Moreover, contrary to respondent's argument, the record indicates that the plan was tailored to meet his specific needs. In addition to making respondent's LTP a party to the agreement, the case service plan provided a means to identify mental health issues that respondent would have to overcome to regain custody of his son by requiring him to undergo a substance abuse assessment and a psychological evaluation. The psychological evaluation performed in April 2013 indicated that respondent had an impaired mental status, including short-term memory loss, caused by a gunshot injury to his head. Considering respondent's specific situation, petitioner held a special team meeting in November 2013 in an attempt to accommodate respondent's needs, re-referred respondent for services on multiple occasions, moved his parenting-time visits from Detroit to Pontiac near where he lived, and offered in-home therapy sessions when defendant had difficulty with transportation. Respondent's own attorney acknowledged in December 2013 that petitioner had established a "well-coordinated plan" to provide respondent with reunification services. In light of this record, the trial court did not clearly err in finding petitioner made reasonable efforts to reunify respondent with his child.

Further, in light of the services provided, the trial court did not clearly err in finding clear and convincing evidence supported at least one statutory ground for termination. Although there was evidence that respondent completed a 30-day inpatient substance abuse program after the supplemental petition for termination was filed, his participation in other services was inconsistent. Testimony at the termination hearing revealed that respondent failed to complete therapy, failed to complete parenting classes, failed to participate in drug screens, failed to regularly visit his son, and failed to verify a legal source of income. As a whole, the evidence supports the trial court's finding that respondent could not navigate his own life, let alone care for his minor child.

C. CHILD'S BEST INTERESTS

We also reject respondent's argument that the trial court clearly erred in finding that termination of his parental rights was in the child's best interests. MCR 3.977(K); *In re JK*, 468 Mich at 209. A trial court's best-interest determination may be guided by a number of factors, such as the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. *In re Olive/Metts*, 297 Mich App 35, 42; 823 NW2d 144 (2012). In this case, the trial court considered a psychological evaluation that concluded that respondent was incapable of caring for himself, let alone his child, especially considering the child's special needs. Evidence presented at the best-interest hearings also revealed that it was unlikely respondent's son could be returned to his care in the foreseeable future, if ever. The child required a safe, permanent, and stable home, which respondent was not capable of providing. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was in the child's best interests.

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Stephen L. Borrello
/s/ Michael F. Gadola